



**STATE OF TENNESSEE
DEPARTMENT OF TRANSPORTATION**

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NASHVILLE, TENNESSEE 37243-0349
(615) 741-2848

GERALD F. NICELY
COMMISSIONER

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GOVERNOR

August 6, 2009

Mr. Victor Otero
Realty and Planning Specialist
Federal Highway Administration
404 BNA Drive, Suite 508
Nashville, TN 37217

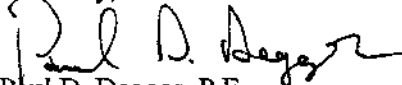
RE: ARRA Local Agency Resurfacing Projects

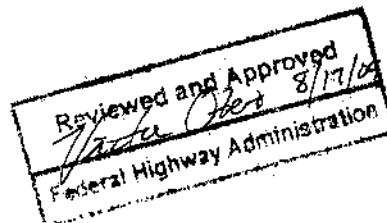
Dear Mr. Otero:

Our Right of Way Division has encountered an issue when certifying the Local Agency ARRA resurfacing projects whereby the local agency is letting the project to contract. Currently, the Department of Transportation has to certify right of way and utilities for Local Public Agency (LPA) Projects and the premise is this would include certifying the resurfacing projects. The issue is that resurfacing project plans do not have survey information; specifically the plans do not depict existing right of way. It would be assumed the roadway being resurfaced is within public right of way; however, survey data to confirm this is not provided.

It is my understanding that you provided the ROW Division with a certification process followed by Georgia and Florida, both very different in their approaches. The Division recommends following the process utilized by Florida, in which the local public agency attests that the proposed resurfacing project is within public right of way. Our Local Public Agency (LPA) Certification form has a box that can be checked which states "I hereby certify as the LPA Official that all existing public lands were obtained prior to this project." Once the LPA attests to this fact, the Division will certify the project. The Department is seeking FHWA's concurrence in this certification process. At your earliest convenience, please notify this office of your decision. If you have any questions, please contact Mr. Jeff Hoge, Director of ROW, at 741-3196 or by email at Jeff.Hoge@tn.gov.

Sincerely,


Paul D. Degges, P.E.
Chief Engineer



Cc: Mr. Joe Carpenter
Mr. Jeff Hoge